D.B. CIVIL SPECIAL APPEAL(W)NO.1510/2006

Jaipur Aloo Aratia Sangh
Vs.
State of Rajasthan & Ors.

DATE OF ORDER :: 27-02-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri S.N. Kumawat, for the appellant.

This special appeal is directed against the order of the learned Single Judge by which while admitting the writ petition of the appellant, the learned Judge declined to grant interim relief.

The appellant-association had filed writ petition challenging the notification which has been issued in the light of the order of the Supreme Court in Civil Appeal No.4103/2006. The dispute related to shifting of the market yard to Muhana on the outskirts of Jaipur city. The dispute travelled upto the Supreme Court. The Supreme Court noticed the stand of the association that they were prepared to shift their business to the shops allotted by the Market Committee. The case of the appellant-association is that the consent was to shift in Block-D but Block-D has been abolished and Block-C has been extended in its place. The appellant challenged the notification dated 18.10.2006 before the Single Judge who admitted the writ petition but did not pass any interim order.

It is said that if the shops are not allotted at the place comprising the erstwhile Block-D, the members of the appellant association may lose chance of allotment. We do not wish to make comment on the grievance which is to be adjudicated in the writ petition. The appellant seeks interim relief to the effect that they may be allotted space/shops in Block-D. In the facts, briefly indicated above, relief of that kind would amount to granting the main relief. Whether the appellant is entitled to space/shops at the same place which formerly comprised Block-D or elsewhere, is to be decided by the writ court. Any adjudication on the point would make the writ petition virtually infructuous. We therefore do not find any error in the order of the learned Single Judge denying interim relief to the appellant.

In course of hearing, counsel for the appellant alternatively submitted that direction may be issued for early listing of the writ petition. The appellant is at liberty to apply for early listing of the writ petition on administrative side.

The appeal stands dismissed.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen